





# INS Reporter

Immigration and Naturalization

U.S. Department of Justice

Summer 1982



Project Jobs

The Interdiction Program

Alien Smuggling and the Vehicle Seizure Law

# INS Reporter

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Summer 1982

United States Department of Justice  
William French Smith, Attorney General

Immigration and Naturalization Service  
Alan C. Nelson, Commissioner

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Cover: With the anxiety and concern evident in her expression, a Haitian child is helped to safety by a Coast Guard seaman, shortly before the vessel in which she and 55 others were traveling sank. Crossing 500 miles of open sea, frequently in unseaworthy and dangerously overloaded vessels, is extremely perilous and often deadly. The Government's interdiction program has sought not only to deter attempts by Haitians to come to the U.S. unlawfully but, more importantly, to prevent the loss of lives from the hazardous voyage.

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The opinions expressed are those of the authors and do not necessarily reflect the views or policies of the Immigration and Naturalization Service.

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The Attorney General has determined that the publication of this periodical is necessary in the transaction of the public business required by this Agency.

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For sale by Superintendent of Documents.

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## PROJECT JOBS

By Richard E. Norton<sup>1</sup>  
Deputy District Director  
San Antonio, Texas  
and

Robert J. Walsh<sup>1</sup>  
Assistant Chief for Investigations  
Central Office

During the week of April 26-30, 1982, more than 400 INS Investigators and Border Patrol Agents conducted specialized area control operations at nine locations throughout the United States. The operation, known as "Project Jobs", was a practical reaffirmation of long-standing Service policy of directing enforcement efforts toward locating illegal aliens in the United States at places of employment.

It also served to demonstrate a firm commitment by INS to a critical agency mission which in recent years had been adversely affected by personnel reductions and by a number of unforeseen emergency programs. Such programs included the Iranian Student Registration Program stemming from the Iranian hostage situation; the unexpected Cuban boatlift; and restrictions to area control operations during the 1980 Census.

For these reasons, apprehensions of illegal aliens by Service investigators dropped from approximately 185,000 during Fiscal Year 1979 to 105,000 in FY 1980, and to 93,000 for FY 1981; a decrease of nearly 50 percent between 1979 and 1981. Although Project Jobs was conducted more than a year after normal procedures were restored, the operation, together with a proportionate increase in investigative resources allocated for area control, was the first clear indication to the public as well as to other law enforcement agencies that the Service was again

vigorously pursuing its interior enforcement mission.

### Planning the Project

Project Jobs was conceived in early February by Joseph F. Salgado, newly appointed Associate Commissioner for Enforcement, and was several months in the planning. The premise for the project was to conduct area control operations which were consistent with existing guidelines, and to take the additional step of ensuring that jobs vacated by apprehended illegal aliens were filled by eligible unemployed United States workers. In early March, the four Associate Regional Commissioners for Enforcement met at the Central Office to preliminarily discuss and plan the logistical and operational aspects of the project.

To ensure maximum success, the Associates, together with Central Office Enforcement personnel, selected prospective target sites based on several criteria, as follows:

- a) the number of leads reporting the presence of large concentrations of employed illegal aliens;
- b) the success of area control operations in the past at particular sites;
- c) the probability of aliens in high-paying jobs;
- d) the availability of detention facilities; and
- e) the extent of unemployment in the various locations.

With these concerns in mind, nine district offices were ultimately chosen to participate: New York and Newark in the Eastern Region; Chicago, Denver, and Detroit in the Northern Region; Dallas and Houston in the Southern Region; and Los Angeles and San Francisco in the Western Region. Meanwhile, contact with the Department of Labor was initiated to begin planning the job referral process.

By March 26, guidelines were furnished to all participating field offices. Thus began a month-long process on the local level of targeting employers, conducting surveillance and developing informants to establish probable cause for search warrant (if necessary).

In addition, field officers began eliciting the cooperation of the U.S. Attorney's Office at each location, establishing liaison with the various state employment services (which are regulated and funded by the Department of Labor), and solving local problems such as setting up processing facilities and expanding detention capabilities.

To minimize the possibility of unfounded allegations being brought against INS and to insure that information was furnished quickly and accurately to all persons involved in the Project, provisions were made for supervisors to be present during all field operations, and for the regions to provide on-site coordinators who were to report all relevant developments directly to the Central Office. Additionally, a media contact was designated at each district to ensure prompt and accurate information was made available to news sources.

One week prior to the starting date of the project, the participating offices compiled a list of approximately 300 targeted employers. To assist the state employment agencies with their role in referring unemployed United States citizens and residents to the vacated positions, five of the districts conducted trial runs at sites known to employ illegals in attractive jobs. A review of the target sites, combined with the success of the trial runs, indicated the planning process was complete, and the project was ready to begin.

### Media Coverage

By the end of the first day of Project Jobs, over 1,250 employed aliens had been located throughout the nine cities. At the same time, it was apparent that the one aspect over which the Service had minimal control—media coverage—was going to have a multifaceted effect on the week's operations.

<sup>1</sup>Messrs. Norton and Walsh were coordinators for Project Jobs working with field offices on the daily operations of the program and analyzing its resulting problems.

Alerted by speculation in the press on the weekend before the project, all three major television networks carried prime-time stories on the day's events. The resultant clamor in each of the nine sites buried district officials with press inquiries, as some offices had to handle dozens of calls each day seeking information on the project. At some locations, press stories had the effect of reducing initial apprehension estimates. For example, Chicago; Newark; Detroit; Los Angeles and San Francisco reported significant no-show rates at factories where management correctly guessed they would be targeted. Media coverage also subjected some actual field operations to intense scrutiny by the press, including instances in Los Angeles and San Francisco where reporters tried to follow officers to the work sites.

Not all the consequences of media coverage were negative, however. While publicity on apprehensions at the various employment sites undercut the time-consuming referral process expected to be performed by state agencies, it also had the effect of generating an unprecedented overnight demand for jobs by unemployed citizens and lawful residents. One frequently cited instance in Los Angeles showed 1,000 people applying for 82 jobs at a plumbing factory; in Chicago, over 1,500 appeared for 161 positions with four employers; and in Dallas, three major employers filled 244 jobs within a day or two of Service operations.

All districts reported a significant increase in the number of area control leads received from a public suddenly aware of INS enforcement programs. Despite largely negative reporting in the cities of Denver, Los Angeles and San Francisco, four opinion polls conducted in those areas indicated public support for the project to be between 70 and 80 percent favorable.

#### Apprehensions

As shown in the accompanying chart, apprehensions of employed illegal aliens totaled 5,440 for the week, substantially above the original

United States Department of Justice  
Immigration and Naturalization Service  
Washington, D.C.

#### PROJECT JOBS (APRIL 28-30, 1982)

| CITY          | EMPL APPREHENSIONS | REFERRALS   | AVG WAGE/HR |
|---------------|--------------------|-------------|-------------|
| Chicago       | 1295               | 1205        | 4.91        |
| Dallas        | 953                | 664         | 4.00        |
| Denver        | 324                | 311         | 5.04        |
| Detroit       | 52                 | 31          | 5.56        |
| Houston       | 1060               | 805         | 4.74        |
| Los Angeles   | 660                | 800         | 4.82        |
| Newark        | 165                | 157         | 4.64        |
| New York City | 358                | 356         | 4.37        |
| San Francisco | 435                | 426         | 5.19        |
| <b>Totals</b> | <b>5440</b>        | <b>5055</b> | <b>4.81</b> |

<sup>1</sup> Reflects apprehensions for a 3-day period

<sup>2</sup> Reflects apprehensions for a 4-day period

projection of 5,000. By the Monday following completion of field operations, 72 percent or 4,071 of those apprehended had already been removed from the United States. To reduce the likelihood of those aliens returning to job sites and undermining the referral process, coordinated traffic checks were set up at Border Patrol Sectors through which the Mexican nationals were repatriated.

The Chicago office led the project in number of aliens located with 1,319 or 23 percent of the total. Dallas participated in the largest single operation, where 170 illegals were removed from a mobile home manufacturer. Los Angeles conducted operations with the highest average number of arrests per site, as that office visited only twelve employers to apprehend 800 aliens. It is notable that Denver, Detroit and San Francisco all reported average wages of the aliens to be over \$5.00 per hour, and that the Southern Region sites accounted for 37 percent of all apprehensions. Also, at least half of the aliens apprehended were found in cities more than 400 miles from the U.S./Mexico border.

#### Non-Mexicans Apprehended

Careful planning and targeting of employment sites not only resulted in

large numbers of apprehensions, but also reflected some departure from the usual patterns experienced in area control operations. For example, it is interesting to note that concentrations of aliens from countries other than Mexico occurred not only at Eastern Region sites, but also in Houston, Texas, a city that critics pointed to as evidence that the Service was unduly stressing the apprehension of Mexican nationals. The stress, of course, was on locating illegal aliens employed in high-paying jobs; not on whether they were Mexican.

The combined totals of non-Mexican apprehensions in Houston, New York and Newark, numbered 524 and accounted for 70 percent of the nationwide total. Although 87 percent of the total apprehensions were Mexican, aliens from 44 different countries were located in jobs in the nine participating districts. It should be pointed out that since more than 95 percent of all apprehensions in FY 1981 were Mexican, and since historically apprehensions of this nationality group far exceeds all others, any effort to remove illegal aliens from jobs in the U.S., will result in the location of a substantial number of Mexicans. This is supported by INS apprehension figures for the past 10 years.

### Wage Patterns

The increase in non-Mexican apprehensions was not the only departure from the usual patterns. It was found that wage patterns were also significantly different. Typically, about half of the apprehensions by Service investigators fell in the "industry" categories of employment, and an additional 40 percent in the "service" and "agriculture" categories. For Project Jobs, however, nearly 80 percent of the aliens located were found in industrial jobs, while only 14 percent were found in service and agriculture. Less than two percent of the aliens were earning under the minimum wage, compared to 14 percent in FY 1981.

Virtually all sites reported examples of aliens employed not only in entry-level factory work, but also in much higher paying jobs; well above national averages. In Chicago, railroad workers were found earning about \$21,000 per year, and auto parts assemblers making \$9.00 per hour. Denver reported construction workers making nearly \$10.00 per hour and meat packers collecting \$15,000 per year for their efforts. The average wage of the apprehended aliens was \$4.81 per hour which represents more than \$50 million in annual salaries paid to the 5,440 illegal aliens located during the project.

### End Results

From virtually all perspectives pertinent to the Service's enforcement mission, Project Jobs was clearly a success. Apprehension goals were exceeded, attractive jobs were opened, and public sentiment strongly favored the effort. Despite the high-profile nature of the project, there were few allegations of improper conduct by INS and its officers. Litigation arising from the week's activities has been confined to procedural matters which are limited in scope. Liaison with various U.S. Attorney's caused the issuance of 80 search warrants, nearly all of which were acquired under the relatively new guidelines on administrative warrants outlined in *Blackie's House of Beef v. Castillo*, D.C. Civil Action Nos. 78-0787 and 78-2338, July 22, 1981.

While there are solid indications that many of the vacated jobs were filled by citizens and lawful residents, a thorough study is being considered to determine if this observation is supportable by other data. Meanwhile, Project Jobs demonstrated to all concerned parties the efficacy of tying the employment referral process to area control operations, and will form the basis for future enforcement policy. □

## The Interdiction Program<sup>1</sup>

By Rudolph W. Giuliani  
Associate Attorney General

The interdiction program which was initiated by the Coast Guard last October 10 at the request of the President is one of many parts of the President's program [to curb the flow of illegal migrants] which is geared to reform and increase the effectiveness of our country's immigration laws. The President's initiatives are interrelated and designed to work together as a comprehensive whole. They will effect comprehensive and sorely needed changes in our immigration policy and laws.

The need for such change is demonstrated by the dramatic and unanticipated increases in migration and pressure to migrate we have experienced in recent years. Historically, persons desiring to emigrate to the United States, including refugees, have been screened and processed overseas. Thus, the overwhelming

majority of individuals who arrived on our shores had been adjudged eligible for admission prior to arrival. Applications for asylum by persons already in the United States were, in the past, relatively few in number and generally clear-cut in nature.

This picture has changed dramatically. Beginning with the Haitian influx in the late 1970's and the outpouring of Cubans from Mariel harbor in 1980, there are now as many as 160,000 persons in the United States whose arrival has been unauthorized and who seek permanent asylum in this country as persons fleeing political persecution. Our policies and procedures, which have been generous and deliberate, have proven inadequate to deal with these overwhelming numbers.

The approximately 800,000 persons who were admitted to the United States in 1980, the latest year for which complete figures are available, represent the greatest influx since 1914. The total number of immigrants and refugees legally and illegally entering the United States in that year represents a greater number of immigrants than ever entered the country in any year, even during the great unrestricted tides of immigration between 1880 and 1921. Surely, it is not necessary to emphasize the vast difference in the economy of this country in the early part of this century as compared to today.

The American people recognize and respect their heritage as a land of immigrants, as a beacon of hope in a vastly troubled world, and have no desire to see that tradition or hope destroyed. Nevertheless, they rightfully expect their government to control the way in which people enter this country. I believe that the proposals announced by the Administration will do much to fulfill that expectation.

<sup>1</sup>This article is excerpted from testimony presented by Mr. Giuliani on February 6, 1982, before the Committee on Merchant Marine and Fisheries, Subcommittee on Coast Guard and Navigation, House of Representatives.



The Coast Guard vessel *Cheese* stands in the background while a boarding party approaches the *Siv Doree*, the first Haitian vessel intercepted under the interdiction program.

Those who can show that they fled their country due to a well-founded fear of persecution based on political beliefs, race, religion, nationality, or membership in a particular social group or who fear such persecution if they return, may qualify for refugee status for entry into the United States or for asylee status in order to stay in

"America simply cannot take all those who would choose to come here."

The breadth and depth of the proposals are impressive. They are intended to deal with the problem of illegal aliens by bringing the productive members of this underground population out into the open; by encouraging the others who do not wish to abide by our laws and contribute to our society to leave; and by deterring further illegal entries and channelling more would-be entrants into legal paths of immigration.

#### **Pilgrimage of the Haitians**

Among the illegal immigrant groups which should be considered in such a comprehensive plan are those who have been arriving by sea. The plight of the Haitians is particularly tragic. In their homeland they face poverty and hunger.

According to the State Department, Haiti is the poorest country in the Western Hemisphere with an annual per capita income of \$300.00. Agricultural productivity is low and declining, and rural Haitians (80% of the population) suffer from high

**"The plight of the Haitians is particularly tragic."**

unemployment, lack of social services, illiteracy and grinding poverty. The State Department has advised us that the vast majority of Haitians who leave the country do so in search of economic conditions elsewhere. States, understand-

dably, represents for many of these people a concrete hope for a better life. Last year's Mariel bustle, coupled with an overall indecisive United States government response to illegal immigration by sea, greatly encouraged this illegal flow. While only 2,522 Haitians are known to have reached Florida illegally in 1979, that number jumped to 15,093 in 1980.

#### **Open Immigration?**

While our legal immigration program is the world's most generous and provides a partial answer to this problem, it allows only a small percentage of would-be immigrants to enter the United States.

The United States unfortunately cannot throw open its doors to all the poor of Haiti, any more than it can open its doors to all the poor of the world who would seek a better life. America simply cannot take all those who would choose to come here. That has been so since 1921 when we first established numerical limitations for foreign countries. With the state of our economy and our own responsibilities to the unemployed in the United States, these ceilings are as important, probably more important than ever before.

The lines presently drawn by our laws are rational and workable. Like the laws which govern the admission of immigrants, there are clear laws governing the admission of refugees and asylees.

the United States. The door to bona fide refugees must and will remain open and every asylum application will be reviewed carefully on its own individual merits. But those who seek only economic betterment do not qualify as refugees or asylees. They are admissible only to the extent that they qualify within existing ceilings and eligibility requirements.

This is not some new rule applied only to this group of people. This is the basic rationale that has governed immigration since 1921, and has applied to all groups from many different nations since then.

#### **Discourage Illegal Migration**

While many of those who now reach our shores from Haiti do not qualify under these standards, they continue to come because they have not been sufficiently discouraged from doing so. The motivation to attempt to reach the United States from Haiti is exceedingly strong. Only a decisive United States policy, which sends clear signals back to Haiti, will overcome it. Such a policy has been sorely lacking.

Our lack of consistent enforcement of our immigration laws against those who would come here illegally leaves a wide gap which the unscrupulous and greedy have quickly filled. Profiteers and unscrupulous smugglers continue to build thriving illicit businesses which traffic in human beings.



They recruit Haitians for trips to the United States knowing that our laws against such efforts are not sufficiently strong. There are those in this country who are also profiting from exploitation of these immigrants after they arrive here illegally.

#### Perils Faced

By failing to sufficiently discourage this traffic we deserve not only the communities in South Florida and elsewhere which must absorb the impact, but also the Haitian immigrants themselves. The trip they make across 500 miles of open sea to the United States is an extremely perilous one. While a motorized vessel can make this trip in three days, it takes the typical Haitian sailing vessel from two to six weeks. These vessels are often unseaworthy and dangerously overloaded. They carry inadequate supplies of water and food and inadequate means of refrigeration. In addition, they are often manned by people who lack required sailing and navigation skills, and worse, there is evidence to suggest that some who man these vessels may commit atrocities on those they transport.

**"We must regain control of the way people enter this country and cease to reward and encourage those who would illegally enter."**

While no figures are available, we must assume that many of these vessels are lost at sea with all aboard. The tragedy of the 33 Haitians who drowned off the coast of Florida last fall brought home to the American public the realization of how dangerous a trip this is. These tragic deaths have shocked and saddened our country.

Our response must be two-fold: firm enforcement of our laws as well as decent and humane treatment for

these people when they are here. We must not lose sight of the fact that all those who attempt this sea journey are gambling with their lives, and those who encourage them to do so for good or bad motives, are needlessly endangering human life. The 33 recent deaths serve to remind us of these perils, but the true extent of the tragedy may never be known.

#### Interdiction

To deter the continuing unauthorized traffic to our shores, the President, on September 29, 1981, ordered implementation of an interdiction program under existing authority. The ample legal basis for this program was described by the Justice Department in its testimony before this Subcommittee on September 17, 1981. A 90-day trial program began on October 10, 1981, pursuant to a bilateral agreement between the governments of the United States and Haiti which was signed on September 23, 1981.

Coast Guard operations under the program have centered on use of a USCG High Endurance Cutter positioned off the Northwest Coast of Haiti. When suspicious vessels are located, a Coast Guard boarding party is dispatched to establish the registry, condition and destination of the vessel.

Specially trained INS personnel—two officers and two Greek interpreters—are responsible for determining the status of people on board interdicted vessels and whether there is any basis for a claim of refugee status. Immigration officers ask each adult and unaccompanied minor several questions designed to elicit information upon which claim to refugee status might be based. If there is an indication of a colorable claim of refugee status, the individual is to be brought to the United States where a formal application for asylum would be filed.

These procedures fully meet our international treaty obligation not to return any person with a well-founded fear of persecution, in addition, we have received, through the State Department, unqualified assurances from the Government of Haiti that returned migrants will not be prosecuted for their departure or otherwise harassed. The State Department has instituted a monitoring procedure to follow-up on returnees.

#### Vessels Interdicted

The fears of those who believed this program would be dangerous have been proven groundless. It has been handled by the Coast Guard in a highly professional, competent, and sensitive manner. More than 70 sus-



The *Geordia* was found to have 58 illegal Haitian migrants on board. Although at sea five days, they had traveled only 120 miles from the coast of Haiti. Shortly after the Haitians were safely transferred to the Coast Guard cutter, their boat capsized.

pect vessels<sup>2</sup> have been boarded and checked.

One vessel, the Exorde, was intercepted on October 25, 1981 and found to have 56 illegal Haitian migrants on board who were travelling to the United States. Although they had been at sea five days, they had travelled only 120 miles from the coast of Haiti and their water supply was already running low. With almost 400 miles of the journey lying ahead at the time of the interception, the Haitian vessel was leaking and the weather was worsening. Shortly after the Haitians were safely transferred to the Coast Guard cutter, their boat capsized. The Coast Guard has informed us that those on board were relieved that they had been discovered and that the vessel would not have made it through the night.

Under established procedures, all those from the Haitian vessel were interviewed by experienced INS officers and, after it was determined that no person on board had a fear of persecution upon return, they were returned to Haiti. Initial follow-up by the State Department regarding 16 of those from the Exorde indicates that they have not been mistreated in any way. The action by the Coast Guard in this case, we believe, directly averted a tragedy at sea.

On January 10, 1982, a 34-foot sailboat with 105 Haitians on board was intercepted by the Coast Guard off the Northwest tip of Haiti. Those on the vessel explained that they had departed Haiti for Miami on August 18, 1981, had landed at Cuba three times, were frustrated by the weather and were on their way back to Haiti. All were interviewed by INS officers and no evidence of an asylum claim was found. Rather, the migrants expressed the desire to return to Haiti. Their badly overloaded boat developed leaks and, for safety, they were transferred to the Coast Guard cutter and transported to Haiti.

In addition, as of January 8, 1982, the Coast Guard had intercepted five

United States Department of Justice  
Immigration & Naturalization Service  
Washington, D.C.

**KNOWN EXCLUDABLE HAITIAN ARRIVALS, MIAMI, FLORIDA  
CALENDAR YEARS 1979-1982**

| MONTH     | 1979  | 1980   | 1981  | 1982 |
|-----------|-------|--------|-------|------|
| January   | 8     | 577    | 760   | 41   |
| February  | 12    | 300    | 282   | 12   |
| March     | 33    | 1,401  | 920   | 14   |
| April     | 44    | 1,174  | 475   | 23   |
| May       | 75    | 1,266  | 803   | 2    |
| June      | 171   | 1,406  | 1,607 | 8    |
| July      | 210   | 1,462  | 1,711 |      |
| August    | 223   | 1,191  | 976   |      |
| September | 185   | 1,074  | 629   |      |
| October   | 837   | 2,200  | 266   |      |
| November  | 330   | 1,021  | 47    |      |
| December  | 580   | 643    | 46    |      |
| Totals    | 2,522 | 15,060 | 8,069 |      |

smuggling vessels containing over 30 tons of various drugs. Thirty alien crew members were arrested for drug smuggling and are to be tried in United States courts. After sentences are served, these persons will be deported.

#### Arrivals Decrease

The results of the interdiction efforts have been dramatic. We have seen, in the few months of the program's operation, a significant decrease in the number of Haitians headed to the United States illegally. While 15,063 Haitians are known to have arrived illegally in 1980, 8,069 arrived in 1981. Before the start of interdiction on October 10, 1981, large numbers were arriving illegally each month. In November 1981, the first full month of the interdiction program, only 47 undocumented aliens are known to have reached Florida. The accompanying table reflects the decrease in Haitian arrivals since initiation of the program.

#### Continuation of Program

The interdiction program is an important part of the President's integrated immigration plan and an important mission for the Coast Guard. The Department of Justice believes that the 90-day trial project

has been an unqualified success. In conjunction with the detention policy, it has deterred many from seeking to enter this country illegally. It has resulted in the rescue of one boatload of migrants from extremely perilous circumstances and undoubtedly will result in saving more lives by discouraging illegal traffic at sea.

The Department of Justice, therefore, believes that the project should be continued at least through the end of the current fiscal year. The Attorney General has made this known to the Secretary of Transportation and Secretary Lewis has authorized the Coast Guard to continue this activity. Discontinuance at this time is likely to result in a renewed influx of undocumented Haitians by sea, while continuance of the project will permit us to test its effectiveness during the May to September period in which, historically, most boat movements occur.

#### Regain Control of Borders

We believe any additional expenditure is justified by the program's success and offset by the savings resulting from the decreased illegal flow. It is a cost effective program that has proven its worth during its brief 90-day trial. In the past, when our policies have been weak and fluctuating

<sup>2</sup>Since the end of June 1982, more than 100 vessels have been boarded and checked.

the numbers of persons entering our country illegally have substantially increased. Now, as we embark upon a comprehensive effort to regain control of our borders, is not the time to show a weakening resolve. Had some of these decisions been made and enforced without vacillation in the past, Miami may well have been spared the difficulties, including soaring crime rates, that it faces today. If Congress will act quickly to pass the needed laws proposed, we may, finally, be able to start solving the problems that plague our immigration system.

We must teach these of the world who seek to cross our borders illegally that we have laws and regular procedures which must be followed. Over 1,100,000 people are now waiting in their countries of origin for

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**"We must not lose sight of the fact that all those who attempt this sea journey are gambling with their lives..."**

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immigrant visas to the United States. The gate crashers must not, in fairness to the people of our own country and those in other lands who seek to come here lawfully, be allowed to succeed in thwarting our laws.

The President's immigration package represents neither avoidance of nor overreaction to the problem. A moratorium on all refugee admissions, as proposed by some, is neither humane nor in keeping with our national traditions. It would be an extreme overreaction which could cause serious damage to the American tradition.

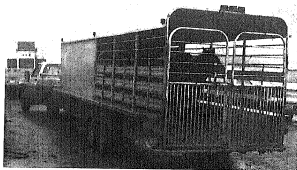
This Administration's efforts are guided by the twin goals of continuing the tradition of America as a land of opportunity for all but within equitable ceilings, eligibility standards and principles for determining the status of those who claim to be refugees under United States law. We must regain control of the way people enter this country and cease to reward and encourage those who would illegally enter. To preserve the generous spirit of our country and its heritage as a land of immigrants, we must stop the uncontrolled flow of the unwanted. I believe the program the President has developed, of which interdiction is but one part, is fair and realistic and can accomplish these goals. □

## Alien Smuggling and the Vehicle Seizure Law

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By Humberto E. Moreno  
Director, Anti-Smuggling  
Enforcement Division  
Central Office

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The smuggling of human beings over the U.S. border is becoming an increasingly dangerous business. Illegal aliens trying to cross the borders are faced with escalating violence at the hands of professional smugglers.

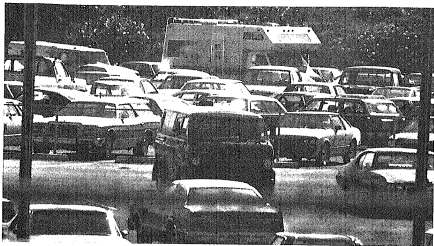
At one time the major danger to aliens smuggled into this country came from heat, exhaustion, and frostbite. Now, we are seeing men, women, and children who have been

maced, beaten, chained to trees, and stacked like boxes in unventilated semi-trailer trucks. Some have even disappeared. Friends and families may find their clothing and even their money, but not the individuals themselves. In addition, instances of rape also have been reported.

Recently, a new and disturbing kind of force has surfaced; the taking of hostages. A grandmother and another relative were held for \$700

Clearly demonstrating the inhumane treatment by smugglers, Del Rio Border Patrol Agents found 16 aliens crowded in a 6' by 4' compartment in this horse trailer. There was no ventilation or sanitary facilities, and adding to the already horrendous conditions was a propane isotactic heater which was being used for warmth. The means of entry to the compartment was through a 3' X 21" trapdoor located in the floor of the trailer.

ransom and threatened with bodily harm. INS investigators at the Stockton, California Anti-Smuggling Unit traced the phone calls, conducted a



The INS storage lot in California reflects the variety of vehicles seized by INS officers in smuggling attempts, including campers, pick-up trucks, station wagons and sedans.

surveillance, and videotaped a prearranged payoff of the sum requested. Three smugglers were arrested and the hostages released without injury.

INS officials see at least three reasons for the increasing violence. The main reason is the rising rate of illegal border crossers. Smugglers are handling larger groups and, to keep the illegal aliens under control, frequently resort to physical abuse. In addition, INS investigators report that those coming across the border now tend to be more "street wise", and more likely to resist the commands of their smugglers.

#### Crackdown

The smugglers themselves are becoming more wary. They fear being caught in the INS anti-smuggling crackdown. The crackdown is focused on the large, well-organized smuggling rings that bring in thousands of illegal aliens each year. In previous raids across the country in late April 1981, INS Anti-Smuggling Agents arrested 12 alleged members of a multi-million-dollar ring and charged them with bringing in as many as 200 illegal

entrants per week for the past five years.

The undocumented aliens, mostly Mexicans and Guatemalans, were recruited in Altitude, Guanajuato, Mexico. Each paid smugglers from \$400 to \$800 to be driven to cities all over the United States. These arrests, the result of months of investigation, should help discourage other large-scale smuggling operations. It should also put some fear into the "Ma and Pa" type of weekend smuggler.

#### Charges Other Than Transporting

Another part of the crackdown involves penalties. INS is asking its officers to look beyond the routine charges of transporting illegal aliens. Charges such as conspiracy, perjury, extortion, tampering with witnesses, and obstruction of justice, as well as intimidation, are being added whenever applicable, and stiffer sentences should result.

The Peonage Statute, formerly the Anti-Slavery Law, is also a significant tool currently being employed. That statute can be applied to cases involving the holding of persons for involuntary servitude, a tactic

increasingly used by smugglers and some employers to collect fees.

#### Vehicle Seizure Law

After years of diligent effort by INS, the 95th Congress finally granted Service personnel the authority to seize conveyances unlawfully being used to transport and smuggle illegal aliens. On May 19, 1979, regulations were enacted putting into force Public Law 95-582, which authorizes the seizure and forfeiture of conveyances used in violation of 8 U.S.C. 1324 (transporting illegal aliens). The law gives Service personnel responsible for enforcement one more effective mechanism for curbing the smuggling of illegal aliens. Since that date, 8,600 conveyances, which include automobiles, trucks, campers, horse trailers, tractor trailer cabs, and boats, have been seized.

The Western Region, which handles the largest portion of the illegal

**SUMMARY OF ANTI-SMUGGLING AND VEHICLE SEIZURE ACTIVITIES  
1979 THROUGH APRIL 1982**

|                            | 1979    | 1980           | 1981        | 1982        |
|----------------------------|---------|----------------|-------------|-------------|
| Smugglers Apprehended      | 16,874  | 16,334         | 13,036      | 7,665       |
| Illegal Aliens Apprehended | 211,780 | 135,547        | 106,039     | 45,482      |
| Authorized Prosecutions    | 2,805   | 3,021          | 7,005       | 3,381       |
| Felony Convictions         | 1,283   | 1,135          | 1,206       | N/A         |
| Vehicle Seizures           | 191     | 2,589          | 2,821       | 3,024       |
| Appraised Value            | -       | \$11,935,004** | \$7,701,650 | \$7,089,205 |

\* Not computed at that time

\*\* Appraised value is larger than in subsequent years due to number of boats seized during Cuban Flotilla.

traffic entering the United States, has seized more than 80 percent of the nation-wide total. The seizure program is a deterrent strategy and places a financial burden on the smuggler. To date, the appraised value of conveyances seized is more than \$24.8 million.

The smugglers are finding it difficult to adjust to the new policy. In fact, a Phoenix, Arizona smuggler, who had been informed that his Plymouth Duster had been seized, refused to believe that it could not be recovered. He returned to the Federal parking lot where the vehicle was being held, and stole his own car.

Housewives, relatives, and first-time transporters of illegal aliens are having to explain why they lost their cars and trucks because they simply "went to the border to pick up their maid or relatives." In addition, last year's "Freedom Flotilla" from Cuba resulted in the seizure of 155 vessels. Final disposition of these boats is pending.

#### Storage Problems

The success of this program also has created some problems relating to storage and disposal. Since more vehicles were seized than anticipated, it was difficult to find places to store them and ways to sell them

through the official government system. In point of fact, the Immigration Service is seizing about three times as many vehicles as any other Federal agency with similar laws.

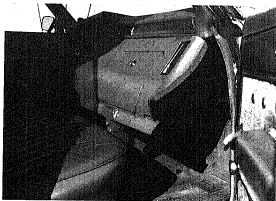
Congressman Romano L. Mazzoli, Chairman of the House Subcommittee on Immigration and Refugee Policy, and members of his Committee; senior officers of the U.S. Navy Imperial Beach Naval Air Facility in California; and regional personnel of the General Services Administration (GSA), California, worked with INS personnel to resolve the storage and disposal problems that confronted the Western Region. An agreement for storage facilities was reached with

the Navy, and GSA eased their sales procedures by allowing spot rather than sealed bids. This has resulted in a more rapid turnover of the seized vehicles. The Service owes a debt of gratitude to those who gave their time and effort to help resolve these administrative difficulties.

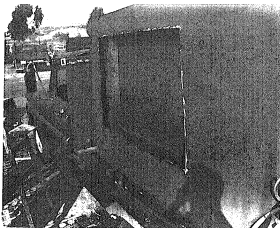
#### Law Amended

Under the so-called efficiency legislation passed by Congress on December 20, 1981, entitled "The Immigration and Nationality Act Amendments of 1981" (P.L. 97-116, 95 Stat. 1611), the seizure and forfeiture law was amended to broaden INS authority and to bring it into conformity with those of other enforcement agencies. The provisions of that Act revised the existing law by:

- 1) authorizing INS to seize vehicles without having to establish whether the owner was involved in the illegal activity, with provisions for remission or mitigation of forfeiture available for innocent owners. Previously, seized vehicles were returned to their owners unless it was definitely established that the owner was privy to the illegal act;
- 2) eliminating the requirement



The ingenious methods of smuggling can never be underestimated. Here the dashboard of an automobile was rigged so it could be lifted and a small person or contraband could be concealed.



This tell-tale limited pickup truck, with steel tank mounted on the back, was stopped by San Clemente, California, Border Patrol Agents. Tank doors were found concealed in the tank. The tank was well constructed with double walls. The space between the walls was filled with liquid so that in checking the filler pipe it would give the impression the tank was filled with liquid. The depth of the liquid in the filler pipe was the same depth in the tank walls.



Driver of the truck became concerned about the officers concealed inside since he had shut off the two-ice cooling system inside the tank when stopped, to prevent the agents from hearing the blower noise. He relented and revealed to agents a trapdoor through the truck bed into the bottom of the tank.

that the government bear administrative and incidental expenses where an innocent owner is involved, even though there was a reasonable belief or

probable cause for the seizure. Previously, INS paid the costs incurred if the owner of the seized vehicle was innocent, even if the seizing officer could not have known the state of the owner's involvement; and

- 3) eliminating the requirement that the INS satisfy any valid lien or other third party interest in the vehicle without expense to the interest holder. Pre-

viously, all lienholders had to be satisfied up to the full market value of the vehicle, and the administrative handling costs could not be deducted from the proceeds until lienholders were satisfied in full.

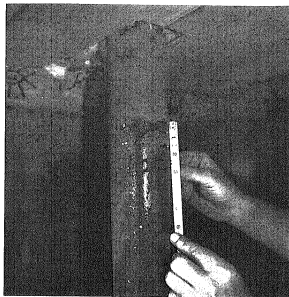
The principal objective of the vehicle seizure law is to deter alien smuggling. This aspect of the Service's enforcement effort is directed at the smuggler. It is not designed to supply the Service with needed vehicles. However, of the approximately 8,600 vehicles seized to date, 80 are presently being used by INS.

Although there are some problems that need to be worked out insofar as the new policy is concerned, the vehicle seizure program is working, and working well. Those smugglers who consider the odds of being caught and receiving probation or reduced sentences, now must contend as well with the possible seizure of their property.

#### International Cooperation

Another smuggling deterrent is the increased involvement of the international enforcement community. The Governments of Canada, Mexico, and some South American nations have committed federal resources to investigating and prosecuting alien smugglers. One excellent example of this cooperative effort occurred on the weekend of July 4, 1980, when a group of Salvadorans attempted to enter the U.S. through the Sonora Desert near Ajo, Arizona. This desperate effort ended in the deaths of 13 of the Salvadorans. Within hours, Salvadoran and Mexican authorities assisted U.S. agents in apprehending those responsible for the tragedy.

In addition, state and local authorities all over the Nation are now pro-



The filler pipe which led from the outside of the tank into the concealed space had stuck out 15 in. above the water level to provide additional air to the aliens.

viding the INS with information on suspected smuggling. The public is also becoming more aware of such things as neighborhood drop-houses in which smugglers conceal groups of people awaiting the conclusion of their clandestine journey. First-hand information from the public is extremely valuable.

In the past, particularly in border areas, the professional smuggler was once regarded as something of a Robin Hood. He was the one who helped those with a desire to make a better life for themselves to realize their dreams. Now, increasingly, the public is becoming aware that the smuggler is in the business for strictly commercial reasons. And, what is worse, he is becoming more callous and vicious.

## Changes in the Regulations

Under Title 8, Code of Federal Regulations, consult:

47 FR 18122, April 28, 1982, Sec. 103.1(a) correcting the legal citation and text in final regulations published November 19, 1981 (48 FR 56775), implementing the revised delegations of authority of the powers and duties of service officers as it relates to the General Counsel.

47 FR 19315, May 5, 1982, Sec. 274, interim rule.

47 FR 19671, May 7, 1982, Sec. 100.4(c) (2).

47 FR 20110, May 11, 1982, Sec. 239.4

47 FR 25002, June 9, 1982, Sec. 100.4(b) 14 & 20.

47 FR 27546, June 25, 1982, Sec. 100.4(d).

47 FR 28608, July 1, 1982, Sec. 239.4

47 FR 30044, July 9, 1982, Secs. 212.5 & 235.3, interim rule.

## ADMINISTRATIVE DECISIONS

(Due to space limitations it is possible to print only an index and identifying paragraph on each precedent decision. Copies of the decisions may be seen at any local office of the Immigration and Naturalization Service. Copies may also be purchased on a yearly subscription basis (\$50 per year, \$12 extra for foreign mailing) from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. The Decisions will be printed later in bound volume form. Volumes of past Administrative Decisions are on sale at the Government Printing Office in Washington. **Note:** Decisions missing from the numerical sequence have not at this printing been released for publication.)

**Number 2896-Matter of Saucedo, in Visa Petition Proceedings, A-20724469, Denied by BIA, Feb. 4, 1982.**

(1) At the time of the petitioner's purported adoption of the beneficiary, Article 400 of the Civil Code of Tamaulipas, Mexico, provided for adoption only by persons "who have no descendants."

(2) The United States citizen petitioner, who had a living natural child

at the time of the beneficiary's adoption in Tamaulipas, Mexico, was in compliance with the Civil Code of that state, and, hence, did not establish that beneficiary qualified as a child of petitioner under section 101(b)(1)(E) of the Immigration and Nationality Act, 8 U.S.C. 1101(b)(1)(E). *Matter of Espinoza*, 16 I&N Dec. 199 (BIA 1977), and *Milla v. District Director*, 494 F.Supp. 998 (D. Utah 1980), distinguished.

**Number 2097-Matter of Hall. In Deportation Proceedings, A-22103583. Decided by BIA, Feb. 4, 1982.**

(1) The respondent, who engages in fund-raising activities as part of his missionary work for the Unification Church, is employed within the contemplation of section 245(c)(2) of the Immigration and Nationality Act, 8 U.S.C. 1255(c)(2), and, therefore, his employment without the permission of the Immigration and Naturalization Service bars him from adjusting his status in the United States to that of a lawful permanent resident.

(2) Where the respondent receives full support in return for his missionary duties, he is not an unpaid volunteer in the service of the Church even though he receives no fixed salary or remuneration in an amount proportional to his success in his work.

(3) In the absence of a clear expression of legislative intent, the Board will not conclude that detriment to the American labor force was Congress' sole or even primary concern in enacting section 245(c)(2) of the Act; however, where the respondent's activities as a fundraiser could be performed by persons or business enterprises outside the Church and involve the sale of goods, an entrepreneurial undertaking which places the Church in competition with other sellers of such goods, it may not be said that those activities are without adverse impact on the United States labor market.

(4) In considering the applicability of section 245(c)(2) of the Act, the Government does not improperly dictate to the Unification Church the permissible scope of its missionaryes.

duties by isolating the respondent's fund-raising activities from his purely ministerial duties; determining the status or duties of an individual within a religious organization is a distinct question from determining whether that individual qualifies for status or benefits under our immigration laws and authority over the latter determination lies not with any ecclesiastical body but with the secular authorities of the United States.

**Number 2098-Matter of Richerd. In Visa Petition Proceedings, A-22677182. Decided by BIA, Feb. 9, 1982.**

(1) Under the Civil Code of Haiti, as amended by the 1959 Presidential Decree, children born out of wedlock after January 27, 1959, and acknowledged by their natural father have the same rights and obligations as legitimate children.

(2) Where the beneficiary, a native and resident of Haiti, was born out of wedlock in 1968 and acknowledged by the natural father in 1977, prior to his eighteenth birthday, he is deemed a legitimate child for immigration purposes under section 101(b)(1)(C). *Matter of Remy*, 14 I&N Dec. 183 (BIA 1972) overruled.

**Number 2099-Matter of Fakalela. In Visa Petition Proceedings, A-22464956. Decided by BIA, March 10, 1982.**

(1) In order to prove that a customary adoption is valid for immigration purposes, the petitioner must establish that the adoption creates a legal status or relationship which is recognized by the government of the place where it occurred as carrying with it substantial legal rights and obligations.

(2) Notwithstanding that the Crown Solicitor of Tonga is of the opinion that customary adoptions in that country create a new parent and child relationship, the facts indicate that this relationship is not exclusive of the natural parents, does not give the adopted child rights and duties comparable to a natural legitimate child, and does not have any legal effect under Tongan law.

(3) Where the petitioner has failed to

prove that customary adoptions in Tonga create a parent and child relationship which establishes legal rights and obligations that are sanctioned by Tongan law, such adoptions are not recognized as valid under United States Immigration laws. *Matter of Palelei*, 16 I&N Dec. 716 (BIA 1979) reaffirmed.

(4) Although a Tongan customary adoption was recognized as valid for immigration purposes in *Milla v. District Director of Denver, Colorado*, 494 F.Supp. 998 (D. Utah 1980), that decision is not binding in cases, as the instant one, arising outside of the jurisdiction of the District of Utah.

**Number 2000-Matter of Lin. In Exclusion Proceedings, A24396728. Decided by BIA May 6, 1982**

(1) An alien who absconds from an Immigration and Naturalization Service detention facility while awaiting exclusion proceedings does not make an entry into the United States as defined in section 101(a)(13) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(13), and, therefore, was properly placed in exclusion proceedings. *Matter of A-*, 9 I&N Dec. 356 (BIA 1961); and *Matter of A-T*, 3 I&N Dec. 178 (BIA 1948), distinguished.

(2) An alien who escapes from Service detention does not acquire the same status as an alien who evades Service inspection by entering the United States surreptitiously and, hence, may not be accorded the procedural benefits of deportation proceedings.

**Number 2901-Matter of Drigo. In Visa Petition Proceedings, A22631584. Decided by BIA, May 8, 1982.**

(1) A visa petition filed on behalf of a beneficiary whose adoption occurred after his fourteenth birthday, but before his sixteenth birthday, was properly denied by the District Director of the Immigration and Naturalization Service because the beneficiary was not eligible for preference status as an adopted child under section 101(b)(1)(E) of the Immigration and Nationality Act, 8 U.S.C. 1101(b)(1)(E), at the time the application was filed.



(2) Notwithstanding a recent amendment to section 101(b)(1)(E) which changes the age limitation of an adopted child from fourteen to sixteen years and the fact that the adoption was timely executed under the amended language of the statute, the beneficiary does not qualify for immigration benefits under section 203(a)(2) of the Act, 8 U.S.C. 1153(a)(2), because a visa petition approval would result in giving a priority date to which the beneficiary was not entitled at the time of the filing of the visa petition.

**Number 2902-Matter of Martin. In Deportation Proceedings, A21388402. Decided by BIA, June 9, 1982.**

(1) Robbery is a crime involving moral turpitude.

(2) Where the alien respondent was convicted of aggravated robbery and received a sentence to confinement totaling 12 years, but thereafter that sentence was voided and the respondent resented to 3 months confinement and 5 years of probation pursuant to the provisions of Colorado Rule of Criminal Procedure 35(a), her sentence does not constitute a "sentence to confinement for a year or more" under section 241(a)(4) of the Immigration and Nationality Act, 8 U.S.C. 1251(a)(4); therefore, she is not deportable under that section of the Act.

**Number 2903-Matter of M/V "Coral Springs". In Fine Proceedings, MIA-10/12.1043. Decided by BIA, June 2, 1982.**

(1) The concept of "strict liability" does not apply until after it has been established that a carrier violated section 273 of the Immigration and Nationality Act, 8 U.S.C. 1323, by bringing undocumented aliens to the United States; however, once that has been established, the carrier's liability for fines is absolute.

(2) Section 273 does not make it unlawful to own a vessel that is used to bring undocumented aliens to the United States or impose a duty upon the owners of vessels to prevent their vessels from being used in that manner.

(3) Where a vessel has been used to

bring undocumented aliens to the United States in violation of section 273 of the Act, it will be presumed that the owner of the vessel participated in the bringing of the aliens by permitting his vessel to be used to transport passengers to the United States, in the absence of evidence to the contrary.

(4) The owner has rebutted the presumption that he participated in the bringing of aliens to the United States where he establishes that his vessel was a commercial fishing vessel, that he employed the captain to use the vessel for fishing and not for any other purpose, that he did not know or have any reason to anticipate that the captain would use the vessel to transport passengers to the United States, and that when he learned that the captain intended to use the vessel for that purpose the owner did everything within his power to stop the captain from doing so.

(5) Under agency law principles, the captain's conduct in transporting alien passengers to the United States cannot be imputed to the owner where the captain, who was employed to fish, exceeded the scope of his employment by using the owner's vessel for a purpose distinct from fishing.

**Number 2904-Matter of M/V "Snail's Pace". In Fine Proceedings, MIA-10/12.684. Decided by BIA, June 2, 1982.**

(1) In proceedings under section 273 of the Immigration and Nationality Act, 8 U.S.C. 1323, the term "carrier" is not used to delineate a class of persons who are liable for violations of that section, but it is used as a matter of convenience to designate the party or parties who have been charged with liability for fines.

(2) Section 273 of the Act does not make it unlawful to own a vessel that is used to bring undocumented aliens to the United States or impose a duty upon the owners of vessels to prevent their vessels from being used in that manner.

(3) Where a vessel has been used to bring undocumented aliens to the United States in violation of section 273 of the Act, it will be presumed that

the owner of the vessel participated in the bringing of the aliens by permitting his vessel to be used to transport passengers to the United States, in the absence of evidence to the contrary.

(4) The owner has rebutted the presumption that he participated in the bringing of the aliens to the United States, and hence is not liable for fines under section 273 of the Act, where he establishes that his vessel was chartered pursuant to a legitimate bareboat charter and that the charter was not entered into for the purpose of avoiding liability for fines under that section.

**Number 2905-Matter of Portales, et al. In Exclusion Proceedings, A24712281. Decided by BIA, May 14, 1982.**

(1) Cuban applicants, who were granted refugee status by Peru and were permitted to live and be employed without restriction in that country, are held to be firmly resettled in Peru prior to their arrival in the United States, and, therefore, not entitled to refugee status in this country.

(2) Notwithstanding the living and employment conditions experienced by the Cuban applicants in Peru, they are deemed firmly resettled in the absence of facts necessary to establish that the conditions of their residence were substantially and consciously restricted by the authorities of that country.

(3) In view of the fact that a grant of an applicant's request for asylum in the United States is limited to 1 year, subject to annual review, and may be terminated for several reasons including changed circumstances in the asylum's country, it is not significant as to the issue of resettlement that Peruvian refugee documents issued to the applicants were only valid for a 2-year period.

(4) An applicant whose request for asylum is granted does not enter the United States as a lawful permanent resident since that status is acquired, if at all, only after the alien has been physically present in the United States for at least 1 year from the date he was granted asylum.